

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILLENNIUM, L.P.,

Plaintiff,

v.

SCANSOFT, INC.,

Defendant.

Civil Action No. 04-CV-3116 (RJH)

DEFENDANT SCANSOFT, INC.'S ANSWER

For its Answer to the numbered allegations in the Complaint of Plaintiff Millennium, L.P., defendant ScanSoft, Inc. ("ScanSoft") pleads:

Parties

1. Upon information and belief, admitted.
2. ScanSoft is a Delaware corporation. The other allegations are admitted.

Jurisdiction and Venue

3. Admitted.
4. ScanSoft admits that it is subject to personal jurisdiction in this judicial district, but denies that it has transacted business and committed acts of infringement in this district that would substantiate plaintiff's purported patent infringement action.

5. ScanSoft denies that it has transacted business and committed acts of infringement in this district that would substantiate plaintiff's purported patent infringement action and make venue appropriate in this judicial district.

Claim for Patent Infringement

6. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 5, above.
7. ScanSoft admits that U.S. Patent No. 5,258,855 is entitled "Information Processing Methodology" and states on its face that it was issued as a United States patent on November 2, 1993. ScanSoft denies the remaining allegations.

8. ScanSoft admits that U.S. Patent No. 5,369,508 is entitled “Information Processing Methodology” and states on its face that it was issued as a United States patent on November 29, 1994. ScanSoft denies the remaining allegations.

9. ScanSoft admits that U.S. Patent No. 5,625,465 is entitled “Information Processing Methodology” and states on its face that it was issued as a United States patent on April 29, 1997. ScanSoft denies the remaining allegations.

10. ScanSoft admits that U.S. Patent No. 5,768,416 is entitled “Information Processing Methodology” and states on its face that it was issued as a United States patent on June 16, 1998. ScanSoft denies the remaining allegations.

11. ScanSoft admits that U.S. Patent No. 6,094,505 is entitled “Information Processing Methodology” and states on its face that it was issued as a United States patent on July 25, 2000. ScanSoft denies the remaining allegations.

12. ScanSoft is without knowledge or information sufficient to form a belief as to the ownership interests in the asserted patents and therefore denies the allegations.

Count One

13. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 12, above.

14. Denied.

15. Denied.

Count Two

16. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 15, above.

17. Denied.

18. Denied.

Count Three

19. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 18, above.

20. Denied.

21. Denied.

Count Four

22. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 21, above.

23. Denied.

24. Denied.

Count Five

25. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 24, above.
26. Denied.
27. Denied.

Count Six

28. ScanSoft repeats and re-alleges its answers to paragraphs 1 through 27, above.
29. Denied.

ScanSoft's Affirmative Defenses

ScanSoft pleads the following affirmative defenses:

1. ScanSoft does not infringe and has not infringed (either directly, contributorily or by inducement) any valid and enforceable claim of U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505, either literally or under the doctrine of equivalents.
2. The asserted claims of U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505 are invalid for failure to comply with one or more requirements of patentability under 35 U.S.C. § 101 *et seq.*, including without limitation, the requirements in §§ 102, 103 and/or 112.
3. Plaintiff is estopped, based on statements, representations, and admissions made during prosecution of the patent application resulting in U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505 from asserting an interpretation of the patent claims that would cover any feature of ScanSoft's accused products.
4. The asserted U.S. Pat. No. 6,094,505 is unenforceable by reason of unclean hands and patent misuse. The claims allowed during prosecution do not correspond to the claims published in the issued patent, which were rejected by the examiner. The allowed claims are narrower in scope and do not cover ScanSoft's products.
5. ScanSoft reserves all affirmative defenses under Federal Rule of Civil Procedure 8(c), the Patent Laws of the United States and any other defense, at law or in equity, that may now exist or in the future be available based on discovery and further investigation in this case.

ScanSoft's Prayer for Relief

ScanSoft prays that this Court enter judgment:

1. denying all relief requested by Plaintiff;
2. finding that ScanSoft does not infringe and has not infringed directly, contributorily or by inducement any claim of U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505, either literally or under the doctrine of equivalents;

3. finding that all asserted claims of U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505 are invalid;
4. finding that U.S. Pat. No. 6,094,505 is unenforceable due to unclean hands and patent misuse;
5. enjoining and restraining Millennium, L.P. and all persons acting on its behalf or in concert with it from charging orally or in writing or otherwise publishing that U.S. Pat. Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416, 6,094,505 are infringed by any ScanSoft product;
6. awarding ScanSoft its costs and expenses in this action including interest;
7. finding that this case is exceptional and that ScanSoft is awarded its attorney fees under 35 U.S.C. § 285;
8. dismissing this action with prejudice against plaintiff; and
9. awarding ScanSoft such other and further relief as the Court deems appropriate.

Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: June 17, 2004



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